IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.546 OF 1997

M/s.Goldchip Travel Agency Pvt.Ltd. ...Petitioners

Versus

M/s.Elegant Tours & Travels Pvt.Ltd....Respondents

.....

Mr.Sanjay Singh i/b Mr.Gabriel Pillai for Petitioners.

None for Respondents.

.....

CORAM: A.M.KHANWILKAR, J.

JULY 20, 2005.

P.C.

1. Heard Counsel for the Petitioners. None appears for the Respondent Company though served.

2. The case of the Petitioners is that the Petitioners had sold and delivered air tickets to the Respondent Company in terms of Agreement dated 6th January 1997. The outstanding amount for the air tickets supplied and delivered to the

Respondent Company is in the tune of Rs.4,40,994/- (Rupees Four Lakhs Forty Thousand Nine Hundred Ninety-four) towards international booking and Rs.2,005/- (Rupees Two Thousand Five Hundred) towards domestic booking. The aggregate amount is Rs.4,42,999/- (Rupees Four Lakhs Forty-two Thousand Nine Hundred Ninety-nine) which was payable with interest at the rate of Rs.24% per annum in terms of the Agreement. There is nothing on record to even remotely suggest that the Respondent Company had disputed its liability, whereas, Respondents have accepted their liability which can be seen from the communication Exhibit ‘C’.

3. Inspite of repeated reminders, Respondent Company failed to discharge its obligation. Eventually, Petitioners sent statutory notice on 13th May 1997, which was duly served on the Respondent Company as is seen from the documents on record. Inspite of service of statutory notice, no reply was sent by the Respondent Company nor any payment was offered. Eventually, Petitioners instituted present Petition on 27th June 1997.

4. Even at the admission stage, no one appeared for the Respondents, for which reason, conditional order was passed on 8th June 1998. Thereafter, the Respondent Company appeared before the Court and after hearing the parties, the Court passed further order on 24th November 1998. The Respondent Company failed to comply with the conditional order as passed. As a result of which, the Company Petition stood admitted and was directed to be advertised. Petition has been duly advertised in the newspaper as well as Official gazette.

5. As mentioned earlier, none appears for the Respondents. No reply has been filed opposing this Petition by the Respondent Company. In other words, assertions made in the Petition have remained uncontroverted. It necessarily follows that the Respondent Company has failed to rebut the legal presumption that the Company is unable to pay its debts. This is so because no reply has been given to the statutory notice nor to the present Petition. No amount has been offered to the Petitioners inspite of conditional order passed by

this Court as back as in the year 1998.

6. Accordingly, this is a fit case where Petition should succeed. Accordingly, Petition succeeds in terms of prayer clauses (a) and (b) with costs. Ordered accordingly.

A.M.KHANWILKAR, J.